

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 22-2867-JFW(MRWx)**

Date: May 6, 2022

Title: Zox LLC -v- West American Insurance Company, et al.

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**PRESENT:**

**HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE**

**Shannon Reilly**  
Courtroom Deputy

**None Present**  
Court Reporter

**ATTORNEYS PRESENT FOR PLAINTIFFS:**

None

**ATTORNEYS PRESENT FOR DEFENDANTS:**

None

**PROCEEDINGS (IN CHAMBERS):**

**ORDER TO SHOW CAUSE WHY ACTION SHOULD  
NOT BE DISMISSED FOR LACK OF SUBJECT  
MATTER JURISDICTION**

On April 29, 2022, Plaintiff Zox LLC ("Plaintiff") filed a Complaint against Defendants West American Insurance Company ("West American"), Ohio Security Insurance Company ("Ohio Security"), and Ohio Casualty Insurance Company ("Ohio Casualty") (collectively, "Defendants") in this Court, alleging that the Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. § 1332(a). However, Plaintiff has not adequately alleged the facts essential for the subject matter jurisdiction of this Court. *Tosco Corp. v. Communities for a Better Environment*, 236 F.3d 495, 499 (9th Cir. 2001) (quoting *Smith v. McCullough*, 270 U.S. 456, 459 (1926)) ("A plaintiff suing in a federal court must show in his pleading, affirmatively and distinctly, the existence of whatever is essential to federal jurisdiction").

Diversity jurisdiction founded under 28 U.S.C. § 1332(a) requires that (1) all plaintiffs be of different citizenship than all defendants, and (2) the amount in controversy exceed \$75,000. See 28 U.S.C. § 1332(a). In this case, Plaintiff has failed to properly allege its own citizenship. A limited liability company is a citizen of every state of which its members are citizens. See, e.g., *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) ("[L]ike a partnership, an LLC is a citizen of every state of which its owners/members are citizens."). However, Plaintiff has failed to identify or allege the citizenship of any of the members of Plaintiff. In addition, Plaintiff alleges its jurisdictional allegations about Defendants on "information and belief." See Complaint, ¶¶ 2 and 3. However, jurisdictional allegations based on information and belief are insufficient to confer jurisdiction. *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001) ("Absent unusual circumstances, a party seeking to invoke diversity jurisdiction should be able to allege affirmatively the actual citizenship of the relevant parties."); *America's Best Inns, Inc.*, 980 F.2d at 1074 (holding that allegations based on "to the best of my knowledge and belief" are insufficient); see, also, *Bradford v. Mitchell Bros. Truck Lines*, 217 F.Supp. 525, 527 (N.D. Cal.

1963). Thus, Plaintiff's allegations are insufficient to establish the citizenship of Defendants. Therefore, Plaintiff has failed to establish that complete diversity exists.

Accordingly, Plaintiff is hereby ordered to show cause, in writing, no later than **May 10, 2022**, why this action should not be dismissed for lack of subject matter jurisdiction. No oral argument on this matter will be heard unless otherwise ordered by the Court. See Fed. R. Civ. P. 78; Local Rule 7-15. The Order will stand submitted upon the filing of the response to the Order to Show Cause. If Plaintiff files an amended complaint which corrects the jurisdictional defects noted above on or before May 10, 2022, the Court will consider that a satisfactory response to the Order to Show Cause. Failure to respond to the Order to Show Cause will result in the dismissal of this action for lack of subject matter jurisdiction.

IT IS SO ORDERED.